

1 AN ACT concerning veterans.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Service Member Employment and Reemployment
5 Rights Act is amended by changing Sections 1-10, 1-15, 5-5,
6 and 5-10 as follows:

7 (330 ILCS 61/1-10)

8 Sec. 1-10. Definitions. As used in this Act:

9 "Accrue" means to accumulate in regular or increasing
10 amounts over time subject to customary allocation of cost.

11 "Active duty" means any full-time military service
12 regardless of length or voluntariness including, but not
13 limited to, annual training, full-time National Guard duty,
14 and State active duty. "Active duty" does not include any form
15 of inactive duty service such as drill duty or muster duty.
16 "Active duty", unless provided otherwise, includes active duty
17 without pay.

18 "Active service" means all forms of active and inactive
19 duty regardless of voluntariness including, but not limited
20 to, annual training, active duty for training, initial active
21 duty training, overseas training duty, full-time National
22 Guard duty, active duty other than training, State active
23 duty, mobilizations, and muster duty. "Active service" does

1 not include absences to work as a military technician,
2 sometimes known as a federal dual-status technician. "Active
3 service", unless provided otherwise, includes active service
4 without pay. "Active service" includes:

5 (1) Reserve component voluntary active service means
6 service under one of the following authorities:

7 (A) any duty under 32 U.S.C. 502(f) (1) (B);

8 (B) active guard reserve duty, operational
9 support, or additional duty under 10 U.S.C. 12301(d)
10 or 32 U.S.C. 502(f) (1) (B);

11 (C) funeral honors under 10 U.S.C. 12503 or 32
12 U.S.C. 115;

13 (D) duty at the National Guard Bureau under 10
14 U.S.C. 12402;

15 (E) unsatisfactory participation under 10 U.S.C.
16 10148 or 10 U.S.C. 12303;

17 (F) discipline under 10 U.S.C. 802(d);

18 (G) extended active duty under 10 U.S.C. 12311;

19 and

20 (H) reserve program administrator under 10 U.S.C.
21 10211.

22 (2) Reserve component involuntary active service
23 includes, but is not limited to, service under one of the
24 following authorities:

25 (A) annual training or drill requirements under 10
26 U.S.C. 10147, 10 U.S.C. 12301(b), or 32 U.S.C. 502(a);

(B) additional training duty or other duty under 32 U.S.C. 502(f)(1)(A);

(C) pre-planned or pre-programmed combatant commander support under 10 U.S.C. 12304b;

(D) mobilization under 10 U.S.C. 12301(a) or 10 U.S.C. 12302;

(E) presidential reserve call-up under 10 U.S.C.
12304;

(F) emergencies and natural disasters under 10 U.S.C. 12304a or 14 U.S.C. 712;

(G) muster duty under 10 U.S.C. 12319;

(H) retiree recall under 10 U.S.C. 688;

(I) captive status under 10 U.S.C. 12301(g);

(J) insurrection under 10 U.S.C. 331, 10 U.S.C. or 10 U.S.C. 12406;

(K) pending line of duty determination for response to sexual assault under 10 U.S.C. 12323; and

(L) initial active duty for training under 10
C. 671.

Reserve component active service not listed in paragraph (1) or (2) shall be considered involuntary active service under paragraph (2).

"Active service without pay" means active service performed under any authority in which base pay is not received regardless of other allowances.

"Annual training" means any active duty performed under

1 Section 10147 or 12301(b) of Title 10 of the United States Code
2 or under Section 502(a) of Title 32 of the United States Code.

3 "Base pay" means the main component of military pay,
4 whether active or inactive, based on rank and time in service.
5 It does not include the addition of conditional funds for
6 specific purposes such as allowances, incentive and special
7 pay. Base pay, also known as basic pay, can be determined by
8 referencing the appropriate military pay chart covering the
9 time period in question located on the federal Defense Finance
10 and Accounting Services website or as reflected on a federal
11 Military Leave and Earnings Statement.

12 "Benefits" includes, but is not limited to, the terms,
13 conditions, or privileges of employment, including any
14 advantage, profit, privilege, gain, status, account, or
15 interest, including wages or salary for work performed, that
16 accrues by reason of an employment contract or agreement or an
17 employer policy, plan, or practice and includes rights and
18 benefits under a pension plan, a health plan, an employee
19 stock ownership plan, insurance coverage and awards, bonuses,
20 severance pay, supplemental unemployment benefits, vacations,
21 and the opportunity to select work hours or location of
22 employment.

23 "Differential compensation" means pay due when the
24 employee's daily rate of compensation for military service is
25 less than his or her daily rate of compensation as a public
26 employee.

1 "Employee" means anyone employed by an employer.
2 "Employee" includes any person who is a citizen, national, or
3 permanent resident of the United States employed in a
4 workplace that the State has legal authority to regulate
5 business and employment. "Employee" does not include an
6 independent contractor.

7 "Employer" means any person, institution, organization, or
8 other entity that pays salary or wages for work performed or
9 that has control over employment opportunities, including:

10 (1) a person, institution, organization, or other
11 entity to whom the employer has delegated the performance
12 of employment-related responsibilities;

13 (2) an employer of a public employee;

14 (3) any successor in interest to a person,
15 institution, organization, or other entity referred to
16 under this definition; and

17 (4) a person, institution, organization, or other
18 entity that has been denied initial employment in
19 violation of Section 5-15.

20 "Inactive duty" means inactive duty training, including
21 drills, consisting of regularly scheduled unit training
22 assemblies, additional training assemblies, periods of
23 appropriate duty or equivalent training, and any special
24 additional duties authorized for reserve component personnel
25 by appropriate military authority. "Inactive duty" does not
26 include active duty.

1 "Military leave" means a furlough or leave of absence
2 while performing active service. It cannot be substituted for
3 accrued vacation, annual, or similar leave with pay except at
4 the sole discretion of the service member employee. It is not a
5 benefit of employment that is requested but a legal
6 requirement upon receiving notice of pending military service.

7 "Military service" means:

8 (1) Service in the Armed Forces of the United States,
9 the National Guard of any state or territory regardless of
10 status, and the State Guard as defined in the State Guard
11 Act. "Military service", whether active or reserve,
12 includes service under the authority of U.S.C. Titles 10,
13 14, or 32, or State active duty.

14 (2) Service in a federally recognized auxiliary of the
15 United States Armed Forces when performing official duties
16 in support of military or civilian authorities as a result
17 of an emergency.

18 (3) A period for which an employee is absent from a
19 position of employment for the purpose of medical or
20 dental treatment for a condition, illness, or injury
21 sustained or aggravated during a period of active service
22 in which treatment is paid by the United States Department
23 of Defense Military Health System.

24 "Orders in lieu of annual training" means any paid active
25 duty performed by a service member which has been designated
26 by that service member's military authority as a replacement

1 or substitution of that service member's annual training
2 obligation. Employers may request documentation from a service
3 member's military unit to confirm that periods of military
4 service qualify as orders in lieu of annual training.

5 "Public employee" means any person classified as a
6 full-time employee of the State of Illinois, a unit of local
7 government, a public institution of higher education as
8 defined in Section 1 of the Board of Higher Education Act, or a
9 school district, other than an independent contractor.

10 "Reserve component" means the reserve components of
11 Illinois and the United States Armed Forces regardless of
12 status.

13 "Service member" means any person who is a member of a
14 military service.

15 "State active duty" means full-time State-funded military
16 duty under the command and control of the Governor and subject
17 to the Military Code of Illinois.

18 "Unit of local government" means any city, village, town,
19 county, or special district.

20 (Source: P.A. 102-1030, eff. 5-27-22; 103-154, eff. 6-30-23.)

21 (330 ILCS 61/1-15)

22 Sec. 1-15. Differential compensation.

23 (a) As used in this Section, "work days" are the actual
24 number of shifts days the employee would have worked during
25 the period of military leave but for the service member's

1 military obligation. "Work days" are tabulated up to 24
2 continuous hours in a shift, regardless if the shift extends
3 into the next calendar day. A shift that extends beyond 24
4 continuous hours will be calculated as an additional work day.
5 ~~without regard for the number of hours in a work day. Work~~
6 ~~hours that extend into the next calendar day count as 2 work~~
7 ~~days.~~

8 (b) Differential compensation under this Act is calculated
9 on a daily basis and only applies to days in which the employee
10 would have otherwise been scheduled or required to work as a
11 public employee. Differential compensation shall be paid to
12 all forms of active service except active service without pay.
13 Differential compensation is calculated as follows:

14 (1) To calculate differential compensation, subtract
15 the daily rate of compensation for military service from
16 the daily rate of compensation as a public employee.

17 (2) To calculate the daily rate of compensation as a
18 public employee, divide the employee's regular
19 compensation as a public employee during the pay period by
20 the number of work days in the pay period.

21 (3) To calculate the daily rate of compensation for
22 military service, divide the employee's base pay for the
23 applicable military service by the number of calendar days
24 in the month the service member was paid by the military.
25 For purposes of inactive duty, the daily rate of
26 compensation for military service is calculated in

accordance with the applicable drill pay chart issued by Defense Finance and Accounting Services.

(Source: P.A. 100-1101, eff. 1-1-19.)

(330 ILCS 61/5-5)

Sec. 5-5. Basic protections. This Section incorporates Sections 4304, 4312, 4313, 4316, 4317, and 4318 of the Uniformed Services Employment and Reemployment Rights Act under Title 38 of the United States Code, as may be amended, including case law and regulations promulgated under that Act, subject to the following:

(1) For the purposes of this Section, all employment rights shall be extended to all employees in military service under this Act, unless otherwise stated.

(2) Military leave. A service member employee is not required to get permission from his or her employer for military leave. The service member employee is only required to give such employer advance notice of pending service. This advance notice entitles a service member employee to military leave.

An employer may not impose conditions for military leave, such as work shift replacement, not otherwise imposed by this Act or other applicable law. This paragraph shall not be construed to prevent an employer from providing scheduling options to employees in lieu of paid military leave.

1 A service member employee is not required to
2 accommodate his or her employer's needs as to the timing,
3 frequency, or duration of military leave; however,
4 employers are permitted to bring concerns over the timing,
5 frequency, or duration of military leave to the attention
6 of the appropriate military authority. The accommodation
7 of these requests are subject to military law and
8 discretion.

9 Military necessity as an exception to advance notice
10 of pending military leave for State active duty will be
11 determined by appropriate State military authority and is
12 not subject to judicial review.

13 For purposes of notice of pending military service
14 under paragraphs (2) or (3) of the definition of "military
15 service" under Section 1-10, an employer may require
16 notice by appropriate military authority on official
17 letterhead. For purposes of this paragraph, notice
18 exceptions do not apply.

19 (3) Service, efficiency, and performance rating. A
20 service member employee who is absent on military leave
21 shall, minimally, for the period of military leave, be
22 credited with the average of the efficiency or performance
23 ratings or evaluations received for the 3 years
24 immediately before the absence for military leave.
25 Additionally, the rating shall not be less than the rating
26 that he or she received for the rated period immediately

1 prior to his or her absence on military leave. In
2 computing seniority and service requirements for promotion
3 eligibility or any other benefit of employment, the period
4 of military duty shall be counted as civilian service.
5 This paragraph does not apply to probationary periods.

6 (4) State active duty ineligible discharge. For
7 purposes of State active duty, a disqualifying discharge
8 or separation will be the State equivalent under the
9 Military Code of Illinois for purposes of ineligibility of
10 reemployment under the Uniformed Services Employment and
11 Reemployment Rights Act as determined by appropriate State
12 military authority.

13 (5) A retroactive upgrade of a disqualifying discharge
14 or release will restore reemployment rights providing the
15 service member employee otherwise meets this Act's
16 eligibility criteria.

17 (6) A service member whose employment with an employer
18 is interrupted by a period of active service shall be
19 permitted, upon request of that service member, to use
20 during such period of service any vacation, annual, or
21 similar leave with pay accrued by the service member
22 before the commencement of such period of active service.
23 No employer may require any such service member to use
24 vacation, annual, or similar leave during such period of
25 active service. This provision expressly applies to both
26 paid and unpaid active service, including, but not limited

1 to: travel to and from military orders, rest periods
2 immediately before or after military orders, and military
3 service during which the service member does not receive
4 pay from the military.

5 (Source: P.A. 100-1101, eff. 1-1-19.)

6 (330 ILCS 61/5-10)

7 Sec. 5-10. Additional benefits for public employee members
8 of a reserve component.

9 (a) Concurrent compensation. During periods of military
10 leave for annual training or orders in lieu of annual
11 training, public employees shall continue to receive full
12 compensation as a public employee for up to 30 days per
13 calendar year and military leave for purposes of receiving
14 concurrent compensation may be performed nonsynchronously.
15 Public employees may receive concurrent compensation for both
16 annual training orders and orders in lieu of annual training
17 in the same calendar year; however, the combined total of
18 their concurrent compensation shall not exceed 30 days in a
19 calendar year.

20 (b) Differential Compensation. During periods of military
21 leave for active service, public employees shall receive
22 differential compensation subject to the following:

23 (1) Public employees may elect the use of accrued
24 vacation, annual, or similar leave with pay in lieu of
25 differential compensation during any period of military

1 leave.

2 (2) Differential compensation for voluntary active
3 service under Section 1-10 is limited to 60 work days in a
4 calendar year.

5 (3) After a public employee is absent from his or her
6 employment for a consecutive period of 365 days while
7 performing voluntary active service, the employee's
8 entitlement to differential compensation shall be
9 terminated. Upon return to work with his or her employer
10 for more than 90 calendar days, the public employee's
11 right to differential pay shall be reinstated. Nothing in
12 this Section shall entitle a public employee to
13 differential pay in excess of 60 work days per calendar
14 year for voluntary active service.

15 (4) Public employees are not entitled to differential
16 pay under this Section for periods of unpaid active
17 service including, but not limited to: travel to and from
18 military orders, rest periods immediately before or after
19 military orders, and military service in which the public
20 employee does not receive pay from the military. (3)
21 ~~Differential compensation shall not be paid for active~~
22 ~~service without pay.~~

23 (5) (4) Public employees who have exhausted concurrent
24 compensation under subsection (a) of Section 5-10 in a
25 calendar year shall receive differential compensation when
26 authorized under subsection (b) of Section 5-10 in the

1 same calendar year.

2 (c) Employer-based health plan benefits shall continue in
3 accordance with Section 5-5 of this Act, except the employer's
4 share of the full premium and administrative costs shall
5 continue to be paid by the employer for active duty.

6 (d) In the event that 20% or more employees of a unit of
7 local government are mobilized under 10 U.S.C. 12301(a), 10
8 U.S.C. 12302, 10 U.S.C. 12304, or 10 U.S.C. 12304a, or 14
9 U.S.C. 712 concurrently, additional benefits under this
10 Section are not required without funding for that purpose.

11 (Source: P.A. 100-1101, eff. 1-1-19.)

12 Section 99. Effective date. This Act takes effect upon
13 becoming law.